



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36343]

Stephens Pioneer Rail LLC—Control Exemption—BRX Transportation Holdings, LLC

Stephens Pioneer Rail LLC (Stephens Pioneer),¹ a noncarrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to authorize its acquisition of a minority membership interest in BRX Transportation Holdings, LLC (BRX Transportation). BRX Transportation, along with Brookhaven Rail Partners, LLC, Related Infrastructure, LLC, and BRX Acquisition Sub, Inc., were previously authorized to acquire control of Pioneer Railcorp (Pioneer), a noncarrier holding company that controls 15 Class III railroad subsidiaries (the Pioneer Railroads). See Brookhaven Rail Partners, LLC—Control Exemption—Pioneer Railcorp, FD 36306 (STB served June 21, 2019).

According to Stephens Pioneer, subsequent to the filing of the verified notice in Docket No. FD 36306, Stephens Pioneer became of member of BRX Transportation. Stephens Pioneer states that it believes that its acquisition of a minority equity interest in BRX Transportation would not constitute control as defined in 49 U.S.C. 10102(3). Nevertheless, Stephens Pioneer states that it filed the verified notice in Docket No. 36343 out of an abundance of caution to authorize its acquisition of a minority interest in BRX Transportation, and, indirectly, in Pioneer.² Stephens Pioneer further states that,

¹ Stephens Pioneer states that it is an affiliate of Stephens Capital Partners LLC, which is also a noncarrier.

² The Board's exemption authority is permissive, and this notice does not constitute a ruling on whether Stephens Pioneer needs authority to control, or following

immediately following the closing of the acquisition authorized in Docket No. FD 36306, Stephens Pioneer placed its interest in BRX Transportation into an independent irrevocable voting trust pursuant to the Board's regulations at 49 CFR part 1013.³

Attached to the verified notice is an Amended and Restated Limited Liability Company Operating Agreement of BRX Transportation Holdings, LLC, dated as of June 7, 2019, pursuant to which Stephens Pioneer will acquire an interest in BRX Transportation.⁴

The earliest this transaction may be consummated is September 20, 2019, the effective date of the exemption (30 days after the verified notice was filed).

The verified notice states that: (i) Stephens Pioneer does not own or control any rail line that connects with any of the Pioneer Railroads; (ii) the proposed transaction is not part of a series of anticipated transactions that would connect any railroad owned or controlled by Stephens Pioneer with the Pioneer Railroads, or connect any of the Pioneer Railroads with one another; and (iii) the proposed transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

(. . . continued)

the proposed transaction would control, BRX Transportation, Pioneer, or the Pioneer Railroads.

³ A copy of the executed voting trust was filed with the verified notice.

⁴ A redacted version of the agreement was filed with the verified notice. An unredacted version was filed concurrently under seal, along with Stephens Pioneer's motion for protective order under 49 CFR 1104.14(b). The motion for protective order will be addressed in a separate decision.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than September 13, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36343, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Stephens Pioneer's representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue, N.W., Suite 800, Washington, DC 20006.

According to Stephens Pioneer, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: September 3, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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